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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,368	05/09/2005	Philippe Leyvraz	CC-5225-2	8216
23117 7590 09/08/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
HEINRICH, SAMUEL M				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
09/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,368

Applicant(s)

LEYVRAZ, PHILIPPE

Examiner

Samuel M. Heinrich

Art Unit

3742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The information disclosure statement filed December 17, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

None of the Foreign Patent Documents (DE10050263 and EP0354362) and none of the Other Documents (Buerhop et al "Surface Treatment ...", "Product News" Sprehsaal ..., and Patent Abstracts of Japan Vol 1997) cited on the Information Disclosure Citation, received at the USPTO on 17 December 2004, were submitted with the application. Examiner has found DE10050263 and EP0354362 in a database search. The "Other Documents" (Buerhop et al "Surface Treatment ...", "Product News" Sprehsaal ..., and Patent Abstracts of Japan Vol 1997) cited on the Information Disclosure Citation must be submitted for consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-35, the independent claims recite in the first paragraph "such as" and "and likewise" which causes the exact scope of the claims to be unclear. The dependent claims do not clarify the scope of the independent claims.

Claim 1 describes (line 5) "a preferably pulsed laser" which causes the scope of the claims to be unclear. Claims 2-15 are rejected because they depend on unclear Claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of USPN 6,160,568 to Brodsky et al in view of USPN 6,211,485 to Burgess in view of USPN 5,172,326 to Campbell, Jr. et al.

AAPA describes (Specification, State of the Art) well known laser marking, mirror beam guides, glass texturing with laser wavelengths of about 193nm to about 351nm, workpiece transport, glass bottle workpiece, and inspection of engraved marks using a CCD camera.

Brodsky et al describe (column 1, lines 36+) well known use of laser marking with a coated surface wherein the beam is steered in multiple dimensions with mirrors, and describe (column 11, lines 8-12) employing glass as a workpiece, and describe (e.g.,

Claim 30) use of feedback for control of the laser. Brodsky et al describe a chemical reaction which provides a visible change under the influence of a laser beam.

Burgess describes (column 10, lines 20-25) monitoring and rejecting or removing a workpiece from the laser drill system.

Campbell, Jr. describe a laser cutting means and work conveyor means including "means for controlling said movable laser beam cutting means and said conveying means to cut the web by simultaneously moving said conveying means and said movable laser beam cutting means".

The use of automated feedback or monitoring with AAPA would have been obvious at the time applicant's invention was made to a person having ordinary skill in the art because it provides rapid operation and reduces human monitoring. The particular claimed etch dimensions, locations, and beam energies would have been obvious at the time applicant's invention was made to a person having ordinary skill in the art depending on the particular workpiece. The particular marking, code marking, or point coding etch sequences, shapes, and locations would have been obvious at the time applicant's invention was made to a person having ordinary skill in the art depending on the known workpieces which are being marked.

Claims 14 and 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of USPN 6,160,568 to Brodsky et al in view of USPN 6,211,485 to Burgess in view of USPN 5,172,326 to Campbell, Jr. et al as applied to claims 1 and 23 above, and further in view of JP02001062579A.

JP02001062579A describes well known CCD camera detection of light transmitted through the workpiece and the use of such monitoring means would have been obvious at the time applicant's invention was made to a person having ordinary skill in the art because it provides good machine tool feature accessibility.

Response to Arguments

Applicant's arguments filed May 29, 2008 have been fully considered but they are not persuasive.

Applicant argues that the Examiner's reliance on Applicant's Admitted Prior Art (AAPA) is not clear. This argument is not convincing. Applicant has cited and described prior art documents in the Specification, State of the Art. Each document is part of AAPA. For example, AAPA describes (Specification, page 4, last paragraph) "US 2001/0009707" and "UV radiation from about 193 nm to about 351 nm which can be produced by excimer lasers" and this description and the cited document are relied upon for the limitation in Claim 1, "producing a preferably pulsed laser light beam of a wavelength <380 nm".

Applicant argues that no connection between coding and inspection is described in the applied prior art. This argument is not convincing. Note, at least Burgess refers to a quality check and describes (column 10, lines 20-23) "the panel may be rejected and removed" if parameters do not fall within a tolerable range.

Applicant argues that non of the cited references describe the detection of the position of the glass receptacles or of the transport speed. This argument is not convincing. At least Burgess describes (e.g., Claim 2) "detect position and feed back to

the controller position information allowing the laser to be pulsed as it crosses" the workpiece. This comprises both position and speed detection.

Applicant argues that US20010009707 does not teach deposition of code marking. This argument is not convincing. US20010009707 describes laser texturing and the use of a known texturing laser for laser marking would have been obvious at the time applicant's invention was made to a person having ordinary skill in the art because it is related to surface marking.

Applicant describes failings of each reference individually, however one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Salamon describes (Summary 12) "laser features in the marking zone are formed during the same process and manufacturing step as the laser zone texturing ("LZT") step". Harrison describes (DETX 25) "adjustment of laser parameters will result in variations in the durability, appearance, and structural form of the resulting mark."

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel M. Heinrich whose telephone number is 571-272-1175. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu B. Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samuel M Heinrich/
Primary Examiner, Art Unit 3742

